

REMARKS/ARGUMENTS

Claims 1-68 and 71-85 are pending. Claims 1, 7, 10, 21, 24, 28, 29, 32, 33, 50-52, 56, 59-68 and 71-73 are amended. New Claims 84-85 are submitted.

In response to the Office Action, favorable reconsideration and allowance of the present application are respectfully requested. In view of the present amendments, it is respectfully submitted that all claims are now in condition for allowance, particularly in view of the indication of allowable subject matter in the Office Action.

Initially, with regard to the claims withdrawn as not readable on the elected species, it is respectfully submitted that the Office Action erred in identifying the claims readable upon the elected species. Thus, even accepting the election of species requirement, many claims were improperly not addressed in the Office Action. For example, the Office Action did not address Claim 59, despite the fact that Applicant specifically identified Claim 59 as among the claims which are generic or readable upon the elected species. The Figure 4 arrangement includes a handle, and two arms detachably coupled to the handle by a first coupling mechanism. Further, a reservoir is detachably coupled to the handle by a second coupling mechanism. For example, Figure 5 shows the handle of Figure 4, in which the reservoir of Figure 4 has been detached. Thus, Claim 59 clearly read upon elected Figure 4. It is respectfully submitted that the claims identified as readable on the elected species in Applicant's response of August 2, 2006 are correct. The fact that other embodiments also show such features does not mean that such features can be ignored as a result of the election of species requirement, but instead such claims should be considered as generic. For example, in another embodiment, as shown in Figure 3, the reservoir can be associated with the cap, and the reservoir can be detachably coupled, for example, by way of the detachable mounting of the cap to the handle (a second coupling mechanism), and further the two arms

are also detachably coupled to the handle by a first coupling mechanism, as element 7 detachably grasps the two arms. Thus, Claim 59 is and was generic.

It is hoped that the above issue is moot. As discussed in further detail below, it is respectfully submitted that all independent claims are now in condition for allowance, and all remaining claims depend from allowable independent claims. Therefore, the election of species issue should be moot. However, should any future rejections issue, it is respectfully submitted that all claims that are generic or readable on the elected species should be considered, and because such claims were not considered in the first Office Action, any subsequent Office Action cannot be made final. To advance prosecution, Claim 59 now depends from Claim 1, and therefore, it is allowable for at least the same reasons for which Claim 1 is allowable.

The indication of allowable subject matter in the Office Action is gratefully acknowledged. In view of the indication of allowable subject matter, Claims 7, 10, 28, 29, 32, 33, 50, 51, 52 and 56 are re-written in independent form. Further, independent Claim 74 was already acknowledged as allowable. Accordingly, it is submitted that all independent claims were acknowledged as allowable in the Office Action, except for Claims 1 and 24. For reasons set forth below, it is submitted that Claims 1 and 24 are now also in condition for allowance.

Claim 1 is amended to recite that the applicator is coupled to both of the two arms and extends between the two arms. Further, Claim 1 is amended to recite a reservoir containing the product. Claim 24 is also amended to recite that the applicator is coupled to both of the two arms and extends between the two arms. The Office Action asserted that certain claims were anticipated by Glover et al. (USP 6,508,255), with other claims indicated as anticipated by Bunnell (USP 1,666,116). The device of Glover et al. does not include a reservoir associated with the device, but instead, a separate container or the like must be provided.

Accordingly, it is submitted that Glover et al. does not disclose or suggest the features of Claims 1 and 24.

Bunnell also fails to disclose or render obvious Claims 1 and 24. Bunnell does not provide an applicator which extends from one arm to another arm and which extends between the two arms. Instead, Bunnell provides a separate applicator associated with each arm. Thus, Bunnell does not provide an applicator coupled to both arms and extending between the two arms.

Further, it is submitted that one skilled in the art would not modify Bunnell to arrive at the arrangement of Claims 1 and 24, because such a modification would be contrary to the purposes and objectives of Bunnell. Bunnell desires to provide a tweezer-like action, so that lashes can be positioned between the two applicator arms of the tweezers, and opposite sides of the lashes can then be grasped by the arms of the applicator. See p. 2, col. 1, lines 39-55. Thus, providing an applicator which is connected to both arms and extends between the arms would be contrary to the purposes and teachings of Bunnell.

In view of the foregoing, it is submitted that Claims 1 and 24 are allowable. Therefore, all independent claims are allowable, and the dependent claims are allowable for at least the same reasons.

The dependent claims recite numerous additional features which are not disclosed or suggested by the cited references. As noted earlier, Claim 59 now depends from Claim 1, and it is submitted that none of the references disclose or suggest such features.

New dependent Claims 84 and 85 recite that the reservoir is detachably coupled to the grasping element, and this feature (also shown, for example, in Figure 4 of the present application) is also not disclosed or suggested by Bunnell or Glover et al.

In view of the foregoing, it is submitted that each of the independent claims is now in condition for allowance. Further, the dependent claims recite a number of additional features which are patentable, particularly in combination with the claims from which they depend.

Finally, with regard to the objection to the drawings, it is respectfully submitted that the drawings appropriately depict the features necessary for proper understanding of the invention. It is submitted that the Office Action does not recognize the appearance of certain features in the drawings. Specifically, the Office Action indicates that the drawings do not depict a reservoir integral with the cap, the cap in a mounted position on the grasping element, or a dispensing aperture in the reservoir emerging at an outer circumference of the cap.

Figure 3 of the present application depicts an embodiment in which the reservoir 15 is associated with the cap, and the cap is removably mountable upon the grasping element 2. The cap in the mounted position is shown in Figure 2, and can be mounted to the grasping element by virtue of a threaded engagement 19 in the illustrated example. As shown in Figures 2 and 3 and described in the present specification (see paragraphs 67-69), a charging pad 35 is associated with the reservoir 15, and a slot 16 is provided in the periphery of the cap, so that the product can thereby be applied to the applicator by way of the slot access to the reservoir. Accordingly, it is submitted that the features objected to as not shown in the drawings are, in fact, shown. The Office Action also indicates that the feature of the elastically deformable slot should be shown in the drawings. It is not clear as to whether this objection relates to the same failure to appreciate the presence of a slot (as discussed above), or whether the Office Action believes that the elastically deformable features should additionally be shown. If it is the position of the Office Action that the slot is not shown, as noted above, Applicant respectfully submits that the slot, in fact, is shown in the drawings. If it is the position of the Office Action that the elastically deformable features must be

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illustrated, it is respectfully submitted that this feature relates to the particular materials selected for the slot, and depiction in the drawings is not necessary for understanding of the invention.

In view of the foregoing, it is submitted that the objections and rejections of the Office Action are overcome and all claims are now in condition for allowance. A Notice of Allowance for Claims 1-68 and 71-85 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, he or she is encouraged to contact the Applicant's undersigned representative at the below listed telephone number.


Respectfully submitted,

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